

Environmental Protection Agency

§ 233.62

body is currently carrying out substantial governmental duties and powers over a defined area. This Statement should:

(1) Describe the form of the Tribal government.

(2) Describe the types of governmental functions currently performed by the Tribal governing body, such as, but not limited to, the exercise of police powers affecting (or relating to) the health, safety, and welfare of the affected population; taxation; and the exercise of the power of eminent domain; and

(3) Identify the source of the Tribal government's authority to carry out the governmental functions currently being performed.

(c)(1) A map or legal description of the area over which the Indian Tribe asserts regulatory authority pursuant to section 518(e)(2) of the CWA and § 233.60(c);

(2) A statement by the Tribal Attorney General (or equivalent official) which describes the basis for the Tribe's assertion under section 518(e)(2) (including the nature or subject matter of the asserted regulatory authority) which may include a copy of documents such as Tribal constitutions, by-laws, charters, executive orders, codes, ordinances, and/or resolutions which support the Tribe's assertion of authority;

(d) A narrative statement describing the capability of the Indian Tribe to administer an effective 404 permit program. The Statement may include:

(1) A description of the Indian Tribe's previous management experience which may include the administration of programs and services authorized by the Indian Self Determination & Education Act (25 U.S.C. 450 *et seq.*), The Indian Mineral Development Act (25 U.S.C. 2101 *et seq.*), or the Indian Sanitation Facility Construction Activity Act (42 U.S.C. 2004a).

(2) A list of existing environmental or public health programs administered by the Tribal governing body, and a copy of related Tribal laws, regulations, and policies;

(3) A description of the entity (or entities) which exercise the executive, legislative, and judicial functions of the Tribal government.

(4) A description of the existing, or proposed, agency of the Indian Tribe which will assume primary responsibility for establishing and administering a section 404 dredge and fill permit program or plan which proposes how the Tribe will acquire additional administrative and technical expertise. The plan must address how the Tribe will obtain the funds to acquire the administrative and technical expertise.

(5) A description of the technical and administrative abilities of the staff to administer and manage an effective, environmentally sound 404 dredge and fill permit program.

(e) The Administrator may, at his discretion, request further documentation necessary to support a Tribal application.

(f) If the Administrator has previously determined that a Tribe has met the requirements for eligibility or for "treatment as a State" for programs authorized under the Safe Drinking Water Act or the Clean Water Act, then that Tribe need only provide additional information unique to the particular statute or program for which the Tribe is seeking additional authorization.

(Approved by the Office of Management and Budget under control number 2040-0140)

[58 FR 8183, Feb. 11, 1993, as amended at 59 FR 64345, Dec. 14, 1994]

§ 233.62 Procedures for processing an Indian Tribe's application.

(a) The Regional Administrator shall process an application of an Indian Tribe submitted pursuant to § 233.61 in a timely manner. He shall promptly notify the Indian Tribe of receipt of the application.

(b) The Regional Administrator shall follow the procedures described in § 233.15 in processing a Tribe's request to assume the 404 dredge and fill permit program.

[58 FR 8183, Feb. 11, 1993, as amended at 59 FR 64346, Dec. 14, 1994]